



OHIO LEGISLATIVE SERVICE COMMISSION

Terry Steel

Fiscal Note & Local Impact Statement

Bill: S.B. 151 of the 131st G.A. **Date:** December 1, 2016
Status: As Reported by Senate Agriculture **Sponsor:** Sen. Beagle

Local Impact Statement Procedure Required: Yes

Contents: Revises provisions of the Dogs Law governing nuisance, dangerous, and vicious dogs

State and Local Fiscal Highlights

- The bill revises the definition of a "vicious dog" in the Dogs Law and modifies various penalties related to violations of that law. These penalties, in some cases, increase from a misdemeanor to a felony. This would result in increases to costs for courts of common pleas, while potentially reducing costs to municipal courts.
- In such cases, state court costs for felony offenses are \$60 for felonies versus \$29 for misdemeanors. Of the amount assessed in court costs related to felony cases, \$30 is deposited into the Indigent Defense Support Fund (Fund 5DY0) and \$30 is deposited into the Victims of Crime/Reparations Fund (Fund 4020).
- The bill requires all complaints of violations of the Dogs Law to be investigated. This is the primary added cost related to the bill, potentially more than a few thousand dollars annually for affected political subdivisions.
- The bill requires the owner of the dog involved in a complaint to respond to the notice within a specified period of time. Otherwise, the owner is issued a fine of either \$25 or \$40. If the owner does not respond within seven days, a court may issue a warrant for arrest of the owner. The fine revenue would be deposited into the county dog and kennel fund.

Detailed Fiscal Analysis

The bill makes several revisions to the Dogs Law pertaining to the definition of vicious, dangerous, and nuisance dogs, as well as the associated penalties. The bill also modifies provisions related to notifications of complaints of dogs and the arrest authority of dog wardens. Overall, several of these provisions have fiscal impacts and are discussed in greater detail below. Most of the potential additional cost involves the requirement to investigate complaints of Dogs Law violations.

Changes to definitions and their potential fiscal effects

Vicious dogs

The bill modifies the definition of a vicious dog in three ways. Firstly, the bill narrows the definition of a vicious dog to a dog that has killed a person, removing existing law stating that such a dog is one that has caused serious injury to a person. Secondly, the bill adds that a vicious dog is one that has killed a companion animal. Thirdly, the bill removes the term "without provocation" as an element of the definition. The bill requires that any vicious dog be humanely destroyed at the owner's expense. Current law provisions require that a vicious dog be humanely destroyed after a second such bite or attack.

Dangerous dogs

The bill revises the definition of a dangerous dog by (1) including a dog that has caused serious injury to a person as a dangerous dog, (2) adding that a dangerous dog also includes a dog that has caused injury or serious injury to any companion animal, (3) removes killing another dog as part of the definition, and (4) removes the term "without provocation" as an element of the definition.

Without provocation affirmative defense

The bill establishes an affirmative defense to the designation of a dog as a nuisance dog, dangerous dog, or vicious dog that the dog was teased, tormented, or abused by a person or a dog was coming to the aid or defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out that activity. The bill also applies this affirmative defense to a person being prosecuted for a violation of the confinement and restraints provisions of the Dogs Law.

Overall, it is difficult to determine the fiscal impact of the changes to these definitions in the bill. Potentially fewer dogs would be classified as vicious dogs under the bill, whereas more dogs could potentially be classified as dangerous dogs. While the definitional changes are unlikely to have any direct fiscal impact, the bill does change various criminal penalties that could have some potential fiscal impact. These are described in more detail below.

Criminal penalty changes and their potential fiscal effects

Violations of confinement and restraint

The bill revises the criminal penalties for violation of the existing prohibitions for failing to (1) keep a dog physically confined or restrained on the owner's premises by a leash, tether, adequate fence, or secure enclosure to prevent escape, or (2) keep a dog under reasonable control. The bill then establishes four separate penalties for violations of confinement and restraint. Firstly, it is a fifth degree felony if a dog kills or seriously injures a person. Under current law, this is a fourth degree felony if a dog kills a person and a first degree misdemeanor if the dog seriously injures a person. Secondly, it is a fourth degree felony if a dog kills or seriously injures a person and the person in violation has been previously sentenced for a similar violation. Thirdly, it is a first degree misdemeanor if the dog causes injury rather than serious injury to a person and serious injury or death to a companion animal. Fourthly, it is a fifth degree felony if a dog causes injury other than serious injury to a person, and serious injury or death to a companion animal, and the person in violation has been sentenced for a similar offense previously.

The bill makes several changes to criminal offenses under the Dogs Law. In some cases these penalties are increased, and decreased in other circumstances. The primary fiscal impact under the bill associated with the changes to criminal offenses would likely result from the elevation of the penalty to a fifth degree felony from a first degree misdemeanor for seriously injuring a person. In such cases, county courts of common pleas would handle these cases instead of municipal courts. Generally, felony cases are more expensive. The penalty for a fifth degree felony is a sentence of six to twelve months in prison and a fine of up to \$2,500, whereas a first degree misdemeanor carries a sentence of up to six months in jail and a fine of up to \$1,000. Additionally, state court costs for a felony are \$60, instead of \$29, with \$30 going to the Indigent Defense Support Fund (Fund 5DY0) and \$30 to the Victims of Crime/Reparations Fund (Fund 4020).

The bill also contains provisions that increase the penalty for violating various requirements relating to the sale or transfer of dogs. Under current law, the penalty for any such violations is a minor misdemeanor on the first offense and fourth degree misdemeanor for any subsequent offenses. The bill increases the penalty to a fourth degree misdemeanor on the first offense and third degree misdemeanor for subsequent offenses.

Complaint notification requirements and their potential fiscal effects

The bill requires any person authorized to enforce the Dogs Law to investigate any complaint that indicates a possible violation of the law. If, after investigating the complaint, the investigator does not issue a citation, the investigator must notify the dog's owner of the complaint and investigation. The bill requires the notification to contain (1) a citation to the provisions of the law that were investigated, (2) contact information of the investigator, and (3) a requirement that the dog's owner respond to the investigator. Under the bill, the investigator must post a notice on the door of the

dwelling which the dog resides within 24 hours of the investigation. The dog's owner must respond within 48 hours via email, facsimile, telephone, or social media correspondence, that the owner has received the notice. Under the bill, if the owner does not respond within 48 hours or a reasonable time, they must be fined \$25. After 96 hours, the owner must be fined \$40. If no response is given after seven days, a court may issue a warrant for the owner's arrest. Any such fine revenue is deposited into the applicable county dog and kennel fund.

Presumably, there would an increase in costs to the applicable law enforcement organization for investigating every complaint made relating to the provisions of the bill. These added costs could possibly exceed \$1,000 annually for small political subdivisions and \$5,000 annually for larger ones, and \$100,000 annually statewide. However, the magnitude of these increases is unclear. It is also unclear as to how much these costs would be offset through any fine revenue received for an owner's failure to respond to an official notification of a complaint against their dogs.

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